ARE THE SILVER STATES RUINED?

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As a result of the financial policy of the government since 1873, culminating in the repeal by Congress in October last of the Sherman Act, the prosperity of the silver producing States has been greatly injured—so much, that the inquiry is sometimes made, Does that injury amount to ruin?

Colorado is not ruined. With its vast area of 275 miles by 380 miles, our State possesses every variety of soil and climate which belong to the temperate zone. The valleys along our rivers in the lower altitudes produce in abundance fruit of the most excellent quality; the grape, the peach, the apple, and the melon attain, in their season, nearer perfection than in any other State; the San Luis Valley, greater than all Massachusetts, and partially irrigated, produced this year wheat which commanded the premium at the late Columbian Exposition over all competing specimens of wheat from the whole world; in portions of the eastern part of our State, in the plains region, generally supposed to be fit only for pasturage, good crops of grain for several years have been produced by a sort of trench system of cultivation without irrigation; our mountains and cañons outcrop with granite and limestone, and our hills and valleys often abound with marble and onyx; our coal deposits rival in quantity and quality those of Pennsylvania and Tennessee combined. Colorado has reservoirs of oil upon both sides of the Rocky Mountains, and probably more extensive oil-fields than have previously been discovered in the United States; and it has mines of the baser metals, and of silver and gold unsurpassed in richness and extent by any mineral producing region of equal area on the face of the globe. But, our State has had its peculiar misfortunes. When the price of bullion silver declined to 72 cents, the mines were compelled to shut down; the miners lost

their employment. Some of them were young men at work for wages, but a large proportion were men of middle age, who came to the Rocky Mountains years ago on the invitation of President Lincoln after the civil war; they had made their settlement on the unsurveyed lands of the Government in the most precipitous defiles and the wildest cañons, and paid four times the price per acre of the public lands of the United States when they secured a patent. They have also paid ten dollars' worth of work per acre, per annum, to retain a possessory title to unpatented mining properties. These men had invested their earnings in houses and lots, in homes, stores, shops, and all kinds of improvements in the mining camps, to give their families the advantages of schools and churches, and found themselves not only deprived of employment, but also of the value of all their property.

Our agriculturists, who for years have had in the mining camps of the State the best market in the Union, almost at their very doors, find their market closed, and the prices of their staple products so reduced as hardly to pay freight when shipped east of Kansas and Nebraska. The stock-raisers are largely in the same condition, and the merchant, mechanic, and professional man find their sources of income destroyed. The annual production of 27,000,000 ounces of silver cut off by the closing of the mines has deprived Colorado of about $24,000,000 per annum—its hitherto chief resource for cash to pay debts, interest on debts, living expenses, necessaries, and luxuries. In the depressed condition of the silver mines there is little profitable demand for our coal, iron, marble, lime, and oil, which so liberally abound in our hills and valleys. Our gold-fields are being extensively prospected and will nearly double the yield of the previous year, but this does not help the silver mines or restore the lost value of property in the silver camps.

Now comes the question, Is there a remedy?

Great Britain, which demonetized silver in 1816, secretly procured, in the American Congress, the passage of an act, in 1857, providing that "No foreign gold or silver coins shall be a legal tender for the payment of debts." At this time there was no pretence that the foreign silver dollars were of depreciated value. In fact the bullion silver in these coins was then actually worth more than their coin value. The act of 1857 removed an ancient landmark, and reversed the policy of this

government for eighty-one years—thirteen years under the Continental Congress, 1776 to 1789, and sixty-eight years under our present form of government, from 1789 to 1857. All this time the Spanish milled dollar, and, after the yoke of Spain had been thrown off, the dollars of Mexico and South America, containing not less than 371¼ grains of fine silver, had been legal tender in the United States by tale at 100 cents each.

The right of Congress to coin money is conceded, also that the right is *exclusive* so long as the right is *exercised.* The States made the concession in 1789, not that the right might be destroyed, but that it might be exercised. Prior to the adoption of the present Constitution of the United States, the mints of the several States were open to all who desired to have coined either gold or silver bullion, and this privilege of the people of all the States was given to Congress by the States, that the right of free coinage might be continued, only the United States Mint was to take the place and perform the office of the State mints.

The right to regulate the value of domestic and foreign coins was conceded to Congress, as all contemporary history proves, in order that there might be a uniformity of value of money in the different States, and an equality as to debtor and creditor rights in contracts, the equity of which largely depends on the fixed value of money. The right "to coin money, regulate the value thereof and of foreign coins" was not given to Congress to be arbitrarily exercised, or changed or withheld at executive or congressional whim or caprice. When Congress, in 1792, created a money unit for the United States, and specified 371¼ grains fine silver as composing that unit and the American dollar, the trust given to Congress by the States to fix the value of the American dollar and of foreign coins was executed, and thenceforth neither the trustor (the States) nor the trustee (Congress) had any power whatever to recall or change the performance of the trust. Mr. Blaine said, February 7, 1878, in the United States Senate (*Cong. Record,* vol. 7, part 1, page 820):

"I believe gold and silver money to be the money of the Constitution—indeed the money of the American people anterior to the Constitution—which that great organic law recognized as quite independent of its own existence. No power was conferred on Congress to declare that either metal *should not be money.* Congress has therefore, in my judgment, no power to demonetize silver any more than to demonetize gold; no power to demonetize either, than it has to demonetize both."

He then quoted that greatest of constitutional lawyers, Daniel Webster, as saying that:

"gold and silver, at rates fixed by Congress, constitute the legal standard of value in this country, and *neither Congress nor any State* has authority to establish *any other standard* or to *displace that standard*."

The right to regulate the value of foreign coins is also in Congress, and must also be considered exclusive, unless the right "to make gold and silver coin a tender in the payment of debts," which right is expressly declared by the Constitution of the United States to be in the States, does not, in order to make that right of any practical use, include the right to regulate the value of the coin when made a legal tender. The right to make gold, silver, or paper money a legal tender is not specifically granted to Congress by the Constitution of the United States, but the right "to coin money, and regulate the value thereof and of foreign coins," expressly given to Congress in the United States Constitution, has been held by the courts to include the right to make those coins a legal tender.

The right of a State to make gold and silver coin a tender in payment of all debts collectable within that State cannot be denied. It is true that the right is enumerated among the restrictions of Section X., Art. 1, of the Constitution, and it was a restriction of the right of the States to make legal tender. Prior to the adoption of the United States Constitution, the States had the right to emit bills of credit, and to make them, as well as gold and silver coin, a legal tender. The right to make paper money or bills of credit a legal tender was taken away from the States, but the right to make gold and silver coins a legal tender was not.

The words "No State shall make anything but gold and silver coin a tender in the payment of debts," in view of the fact that previously the States possessed and exercised the right to make gold, silver, and bills of credit a legal tender, restricts the States only from making paper money or bills of credit a legal tender. The right to make gold and silver coin a legal tender is not derived from the Constitution of the United States. That power was already in the States when that Constitution was adopted, and by the use of the word "but," in the negative statement of the clause above quoted, the power was affirmed. The United States Constitution leaves the right of a State to make gold and silver

coins a tender in the payment of debts precisely as it was before that constitution was adopted. Prior to the adoption of the United States Constitution, all the States made both domestic and foreign coins a legal tender; indeed, the bulk of the silver circulation in the United States was foreign coin, and remained so for many years after the establishment of the present government. Until 1857, the United States always recognized the Spanish milled dollar and the dollars of Mexico, Central and South America, containing not less than 371¼ grains fine silver, as legal tender by tale. There can be no doubt of the right of any State to make gold and silver coin tender in the payment of debts collectable in that State. It is equally clear that this right extends to foreign coin, because at the time the Constitution was adopted, and for several years after, there were no national coins. It may be said Congress enacted in 1857 that thereafter no foreign coins should be a legal tender in the United States. *But no act of Congress can deprive a state of a constitutional right.* Admit that the right of the United States is concurrent with that of the States, and that Congress could lawfully pass the statute of 1857, that statute is only entitled to its legal effect. It is good in all territory over which the United States has exclusive jurisdiction; it is good in all States which have not or do not avail themselves of their constitutional right to make foreign gold and silver coin a legal tender, but cannot possibly take away that right. It may also be said that the right "to fix the value of domestic and foreign coins," being directly ceded to Congress, is taken away from the States, or, conceding that the States have an undoubted constitutional right to make foreign and domestic coins a legal tender, that the States cannot fix the value of those coins for legal tender purposes. The United States has no direct grant in the Constitution to make anything a legal tender, but the right to make legal tender has been conceded to Congress because it was necessary to make valid and effectual the grant "to regulate the value of domestic and foreign coins."

The word "tender" in this connection is defined by Webster as "that which is offered as money." A tender of money is unmeaning unless it includes a specification of value. The design of making legal tender is that it shall be a stable measure of value and thus be a fair and permanent register of indebtedness. In the history of the world at various periods and among differ-

ent nations, almost everything valuable has been made legal tender; but in every case the value of the legal tender was specified. The words "legal tender" imply that an offer to the creditor is of that which is made tender at a fixed valuation, which the creditor is compelled to take, or lose his claim. If the right to make gold and silver coins a legal tender does not carry with it the right to fix the value of the coins so made a legal tender, then the first right is wholly nugatory, and the decision of the U. S. courts "that a specific grant of power carries with it every other power necessary to make that grant valid and effectual" is false.

As a matter of constitutional law, there can be no doubt that the concurrent right of the national government to make legal tender does not in any way affect the right of a State to make gold and silver coins, domestic and foreign, a legal tender within its borders; and yet there is no necessity that there should be any conflict of authority between any State and the general government. In 1792, Congress enacted that 371¼ grains fine silver should constitute the money-unit of the United States, or the American dollar. This power was given by the States to Congress in order that it might create a legal uniformity of value of money in all the States, and, such a money-unit having been created, there is high authority that the trust given to Congress in this respect is executed, and can neither be changed by Congress nor the States.

Daniel Webster recognized the constitutional right of a State to make a legal standard of money, but held that the value of such tender must be the money-unit established in 1792. So long as the general government made the silver dollar of the United States and the foreign dollars of our sister-republics in North and South America legal tender at not less than 371¼ grains fine silver to the dollar, there was no necessity for any State to legislate as to legal tender.

The remedy is for each State to enact that the silver dollars of the United States and of our sister republics in North and South America, containing not less than 371¼ grains fine silver, shall be a legal tender by tale, or at 100 cents each, for all debts, public and private, collectable within that State.

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